IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA, **Plaintiff,** v. JONATHAN CARRION-PAULA, **Defendant.**	**CRIMINAL NO.** 18-00293 (JAG)

MEMORANDUM OPINION AND ORDER

GARCIA-GREGORY, D.J.

This matter is pending before the Court on Defendant Jonathan Carrión-Paula's Motion to Suppress **(I)** all the physical evidence state police officers seized on April 20, 2018 while executing a search warrant at his residence in Caguas, Puerto Rico [1]; and **(II)** all the post-arrest statements he gave to federal ATF agents almost 30 hours later on April 21, 2018; the Government's opposition to Defendant's request; and the ensuing replies. Docket Nos. 37; 39; 43; 46. After considering their respective positions—and for the reasons provided below—Defendant's Motion to Suppress, Docket No. 37, is hereby **DENIED**.

I. Suppression of Items Seized Pursuant to Search Warrant

The warrant authorized the executing officers to search Defendant's residence for "anything related to the Controlled Substances Act of P.R., [the] Weapons Act of P.R.[,] and/or

[1] The items seized at Defendant's residence were: **(i)** one Glock Pistol, Model 30, .45 caliber with an obliterated serial number; **(ii)** one Glock .45 caliber, 13-round capacity magazine; **(iii)** one Glock .45 caliber, 10 round capacity magazine; **(iv)** thirty-two .45 caliber ammunition rounds; **(v)** one small plastic baggie with cocaine; **(vi)** three plastic containers with marihuana; and **(vii)** "other assorted items." Docket Nos. 37 at 2; 39 at 2-3.

any other violation of law." Docket No. 48-1 at 3. This generous sanction understandably invited Defendant's Fourth Amendment challenge—after all, warrants must "particularly describe[e] . . . the . . . things to be seized." Docket No. 37 at 3-6. The Court still declines to suppress the evidence retrieved from his residence because, as the Government points out, such a general description was "reasonable" given the "surrounding circumstances." Docket No. 39 at 4-5.

In this case, the magistrate judge was presented with an affidavit that contained first-hand information linking illegal activity to Defendant's residence. Docket No. 48-1. The affidavit described, among other things, two separate instances where Defendant was observed exiting his residence and walking towards a vehicle with drugs, first marihuana, and then cocaine. *Id.* at 2-3. The affidavit further noted that Defendant had a black firearm in his waistband during the first tour. *Id.* at 3. So, the magistrate judge had sufficient grounds to believe that Defendant's residence was "being used for the storage of controlled substances and firearms." *Id.*

All these facts were also included in the warrant. *United States v. Klein* 565 F.2d 183, 186, n.3 (1st Cir. 1977) (noting that an affidavit may be referred to for purposes of providing particularity if it accompanies the warrant, and the warrant uses suitable words of reference which incorporate the affidavit). The executing officers were thus aware of Defendant's underlying offenses (illegal possession of a firearm and drug trafficking) and the items they would be searching for (marihuana, cocaine, and a firearm). *See* Docket No. 48-1 at 2-3. "This is clearly not a case where, insofar as drugs and [firearms] are concerned, the executing officers were left with unfettered discretion as to what they could seize." *United States v. Morris*, 977 F.2d 677, 682 (1st Cir. 1992). Indeed, they eventually seized marihuana, cocaine, and a firearm (along with ammunition) from Defendant's residence. Docket Nos. 37 at 2; 39 at 2-3.

Under these circumstances, "the evidence presented to the magistrate [judge] establishe[d] reason to believe that a large collection of similar contraband [wa]s present" in Defendant's residence; and the warrant "provide[d] the executing [officers] with criteria for distinguishing the contraband from the rest of [Defendant's] possessions." *Morris*, 977 F.2d at 680-82. The Court accordingly finds that the warrant satisfies the Fourth Amendment's "particularity" requirement; and, by extension, that the executing officers properly seized the marihuana, cocaine, firearm, magazines, and ammunition from Defendant's residence.[2]

II. Suppression of Post-Arrest Statements Made to Federal Agents

Defendant's statements to federal ATF agents obviously were not made "within six hours immediately following his arrest" by state police. Docket Nos. 37 at 6-9; 43 at 2-5. But this cut-off time—which Defendant borrows from 18 U.S.C. § 3501(c) to justify their exclusion—did not begin to run then because he was being held only on state charges by state authorities. *United States v. Alvarez-Sánchez*, 511 U.S. 350, 357-60 (1994). As the Government observes, the ATF officers interviewed Defendant well within this statutory window once the clock started running for them the next day. Docket No. 46 at 1-4.

There is no evidence of any "collusive arrangement" between the state and federal law enforcement agencies involved in this case either; and their Memorandum of Understanding facilitates a level of "routine cooperation" that is, "by itself, wholly unobjectionable" for purposes

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[2] To be clear, these items were properly seized pursuant only to the first two parts of the warrant, which cover "anything related to the Controlled Substances Act of P.R. [and the] Weapons Act of P.R." *Morris*, 977 F.2d 682 ("[I]n cases where a search warrant is valid as to some items but not as to others, [the First Circuit] ha[s] established that a court can admit the former while excluding the latter."). There should be no doubt that the warrant's catch-all description—sanctioning the seizure of "anything related to . . . any other violation of law"—is impermissibly broad. *Id.*

of Defendant's right to prompt federal presentment. *Alvarez-Sánchez*, 511 U.S. at 359-60; *see Anderson v. United States*, 318 U.S. 350 (1943) (finding confession inadmissible as the "improperly" secured product of an impermissible "working arrangement" between state and federal officers); Docket No. 46 at 2-5. The Court accordingly finds that Defendant's post-arrest statements to federal ATF agents did not violate his Fifth Amendment right against self-incrimination.

CONCLUSION

For the foregoing reasons, Defendant's Motion to Suppress the physical evidence seized from his residence pursuant to the search warrant executed on April 20, 2018; and his post-arrest statements to federal ATF agents on April 21, 2018, Docket No. 37, is hereby **DENIED**.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this Tuesday, September 3, 2019.

s/ Jay A. García-Gregory
JAY A. GARCIA-GREGORY
United States District Judge